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When we penned the notice in our last, of the change in the character of the FRIEND, we were far from anticipating its speedy entrance into the field of politics. But so it has happened, and it has signalized its advent, by the publication of a severe article; the ascerbity of which is bestowed freely upon the Government, the Courts of Justice, and Mr. Judd. We have also come in for an ample share. The spirit of the Friend has been hitherto so much at variance with the acrimony of political strife, and its editor so zealous in the cause of Truth and Charity, that this course is the more surprising. We would gladly, by learning the real author of the article in question, have spared the editor of the Friend from such comments as the nature of the piece demands. Upon application, however, to Mr. Damon to that effect, he declined informing us. Consequently, we have no option, but to consider the article editorial, although we should be sorry to believe that Mr. Damon entertains the sentiments to which he has given publicity.

As the argument of the party that maintains the views adopted by the U. S. Commissioner, we were pleased to see it appear. The weakness of their cause has been made even more manifest, for no new views or proofs have been adduced. It is the old story in a new dress. As its arguments, pro and con, are already before the public, it is needless, at this juncture, to refer to them again. If the reasons already advanced be deemed inefficient, we must be excused from furnishing understandings also. But, there are some points in this article, which claim attention, and at the risk of committing what Dr. Johnson considers the greatest breach of politeness, quoting an author against himself, we shall allude to them.

We find "The Friend" a great stickler for fairness, but if it is proved in many instances, in the article in question, to have violated this principle, it will aid the reader in estimating the value of the arguments which it adduces. On the first page, Mr. Judd is made to reply to Mr. Brown, in his letter of 30th. August, that his "sole ground" for upholding the course of the Governor, was that there is no existing treaty, &c. No candid reader will find any such conclusion from the perusal of that letter. Mr. Judd states, "that His Excellency is not justified by any existing treaty, in departing from the statute laws of the Hawaiian government," and further, that he "begs leave to request time to vindicate the ground assumed." His reasons are to come, and it is upon them that he relies to uphold the course of the Governor. Another notable instance is as follows:—

"To what a mortifying result has Dr. Judd arrived—to publish to the world that a nation which has been represented as fully 'capable of not only regulating its intercourse with foreign powers,' but as having arrived at a high degree of civilization, considered, only three years since when the laws were enacted, RAPE, MURDER, ARSON and TREASON to be 'simple misdemeanors.'"

Could a more unfounded assertion be made? The Hawaiian statutes punish murder with death. Treason, by confiscation, imprisonment and banishment. Rape, under certain circumstances mentioned in the statute, by banishment or hard labor in prison. But in cases like Wiley's, when the statute makes it "scarcely a misdemeanor" here, by a fine of 50 dollars. The penalties attached to the offences in the above cases constitute them crimes, with the exception of the distinction made by the legislators in one degree of the last. The reason for this, Mr. Judd very properly says he is not called upon to discuss. Whatever may be his private judgment, he took the law as he found it, and if the Commissioner had done the same, this long controversy would have been spared.

Again, on the fourth page, Mr. Judd is charged with a "most glaring contradiction"

of himself, and the reader is referred to the Correspondence, pages 12th. and 8th., for the fact. The writer must have intended to blind his readers by the boldness of the assertion. On turning to the pages in question, we find the facts exactly the reverse. The letter of the 31st. August did remain unanswered, as will be seen. On the 4th. Sept., the U. S. Commissioner addressed another note to the Secretary, and in the reply to that, on the 5th., Mr. Judd writes that His Majesty had been informed by him, that Mr. Brown had addressed an official note to this department on the same subject, to which there had not as yet been allowed time to reply. The note referred to was the one of August 30th., to which, in a reply of the same date, Mr. Judd had also begged leave to request time to reply: &c.

If there is any contradiction in the paragraph referred to on page 46th., it is Mr. Hooper that makes it and not Mr. Judd, who merely repeats Mr. Hooper's opinion. While upon this topic, we would observe, that to us there seems to have arisen an unnecessary misapprehension on the part of the opponents of Mr. Judd. Both he and Mr. Ricord testify to the fact that Mr. Hooper used language to the following effect, in a conversation at the Foreign Office, when only they were present. "That his nominated jury would be more likely to convict Wiley, than one promiscuously drawn from the boxes, and he thought it ought on that account to be more acceptable to the Government." Yet the Friend does not hesitate to charge both Mr. Judd and Mr. Ricord with uttering a "palpable, infamous untruth." This is a serious accusation, and subjects both the editor of the Friend and publisher to an action for libel. We would seriously ask of the Editor, if he believes his readers will credit him, when he accuses the Secretary of State and the Attorney General of perjury; for that is the plain charge. And what are his grounds? Why, that Mr. Hooper denies that he wished to nominate a jury for the purpose of convicting Wiley. We fully believe Mr. Hooper in this, and beg the Editor of the Friend to read more attentively the affidavit of Mr. Ricord. What is its obvious meaning? To us it reads as follows; that in the conversation that ensued between the parties, relative to the respective merits of the methods of selecting jurymen, Mr. Hooper, who had proposed men of known moral worth for his jury, observed, that a jury like that would be more likely to convict the accused, than one drawn promiscuously from the ballot box. No one can doubt that he meant, if he did not express it, *if guilty*.—And, from the nature of the conversation, it is evident that he made this distinction on the ground, that if the jury were chosen by lot, Wiley might by chance have upon it, some one or more, who, from prejudices, friendship, or any of the many motives which bias human judgment, might be disposed to give a verdict in his favor. But there would be no such chance in the jury he selected, and the government, on that account, ought to approve of it. The impartiality of the jury was not the question. It was one of law, and the law prescribing a method which might possibly give chances in Wiley's favor, he was fully entitled to them. To this effect was the Attorney General's reply. Mr. Hooper was not, nor has he ever been charged with wishing to appoint a jury to convict Wiley. That he supposes he has been is evident from affidavits, and the idea has been circulated throughout the community, giving rise to no small degree of ill-will.

The Friend asks questions with a triumphant sneer, as if it expected the ignorance of others to equal its own.

"We would ask of the learned Secretary, if it is the custom in his native country for a 'plaintiff' to plead guilty or not guilty before a jury in its Courts? Mr. Brown denies that Mr. Wiley ought to have been tried at all before the Inferior Judges, without notice having been first given to the United States Com. Agent. By referring to Consul Wyllie's letter on page 74, in relation to 'Tom the Barber,' it appears that the principle acted upon in British cases, is to inform the British Consul when one of his country-

men is to be tried. Why is not such a course pursued towards the U. S. Consul, in cases of Americans?"

To the former it can be replied, there was no plea of any kind made. To the latter, it was a trial sought by the government.

"As an offset to Mr. Brown's ignorance, we will only refer to Dr. Judd's statements that rape is punished with death in England, that neither in England or the United States, is this 'deference,' (the allowing a jury of half foreigners) paid by law to the subjects of foreign countries, accused of crime," p. 27; and that the Governors of the Islands have the same judicial power which is vested in the Supreme courts of the respective States of the United States." Will the Secretary be good enough to state to whom, can one appeal from the decisions of the Supreme Judges of Massachusetts? From the Governor, here, there is an appeal."

The preceding are indeed an offset, to quote the Friend, "to Mr. Brown's ignorance." Statute 13, Eliz., C. 7, prescribes that punishment in England, and never having been repealed, is still in force. It enacts also, "that it is not a sufficient excuse in the ravisher, to prove that she is a common strumpet: for she is still under the protection of the law and may not be forced. Nor is the offence of Rape mitigated by showing that the woman at last yielded to the violence, if such her consent were forced, by fear of death or duress; nor is it any excuse, that she consented after the fact." 1, Hawks, 103.

If a jury of half-foreigners is allowed in the United States, why does not Mr. Brown show it? An appeal from the Supreme Court of Massachusetts, or from the Supreme Court of any state in the Union, is to the Supreme Court of the United States of America, by Act of Congress, 24th. September, 1789, § 25.

We are requested to look into the dictionary for information as to the meaning of the word "empannelled." For the further information of the "Friend" we have done so, and find "impaneled" to be defined "formed as jury."—Webster, p. 432. Consequently impanneling is registering their names as they are sworn or "formed." And further, lest it should again blunder, we will inform it, that by the laws of England and the several states of the American Union, no jury is impaneled to try a cause until the challenges have been made. When twelve have been called up from the array, to whom neither party has or can have any valid objection, they are said to be impaneled. "As the jurors appear when called, they shall be sworn, unless challenged by either party."—Lord Gifford. The Friend confuses the words "the panel of the jurors," or the twelve summoned to try the cause, with the word "impanneling," which we have shown to be the act of preparing them by challenge and by oath for trying the specific cause in hand.

We inquire of "The Friend" how "notorious" wrong is done when the law afforded the desired justice? Here as in the U. S. a court of appeal is provided to correct mistakes and review decisions. If the parties think that error has occurred below, they must appeal, or the error is not an error in law.

Other questions are raised in regard to the English translation of the laws:—

"Will the editor deny that this translation has been printed and sold by order of the government? Will he deny that it was taken to the United States, France and Great Britain by the Diplomatic agents of His H. Majesty, and laid before them as the translation of the laws of this realm?"

To these we reply, that we are ignorant. But this we do know, that while conducting the old "Polynesian" four years since, we requested a friend to translate for our columns the Hawaiian Statutes into English, thinking it would be acceptable to our subscribers. While we continued that paper, those translations were furnished, though somewhat irregularly. Whether they constituted any part of what is now called by Mr. Brown "the translation" we cannot say, but can assure him that so far as they were extended, they were considered simply a translation.

The Friend quotes a sentence from the

letter of Mr. Judd, as an instance of the fault which we had to find with its composition.—In this case it is perfectly right, but the sentence, although of an awkward length and involving too many distinct propositions, is perfectly intelligible when the typographical error is corrected and "valid" as in the original reads "invalid."

To quiet the cavils of the Friend in regard to the assertion that the Secretary of State assumed the "sole responsibility" in the Wiley case, we will inform it, that the subject was debated at much length before the King at a full Cabinet Council. Whether it was or not, however, it is nothing to the Friend. His Majesty nor his ministers need none of its misplaced logic or futile arguments to inform them of their duties. The Friend is also pleased to express its disgust at the publication of the pamphlet in question. Has it none to spare for those who rendered it expedient; who interfered unnecessarily in such a low case, and, who by impeaching the justice of His Majesty's courts, scouting at their testimony, and appealing to sustain the grounds assumed to the affidavit of a man condemned by a foreign jury as well as by those courts, compelled the government to give to the world the highest kind of testimony? The written and sworn records of their courts. They tell so much against their views that we do not wonder at the chagrin so palpably manifested. Would they not like a veil thrown over their whole proceedings? If they have started the cry of mad-dog they must not be angered if their own dog is killed. But can any thing else be expected from those who having assumed a position, are ashamed or unable to meet its legitimate deductions. Before entering upon it they should have considered to what it was leading them. If their adversaries can show it to be untenable or pernicious in its consequences, it is not manly to dodge the fact and resort to ridicule and invective. Mr. Brown shows in his letter of 14th. Feb., the 3rd. article to be injurious and immoral, and sustains his views by supposing a case in which a consul might collude with his countrymen to defeat justice. Mr. Brown's words are "a jury might be packed by the English consul, who would acquit the defendant, even if guilty." Mr. Judd, as he had by rules of argument a perfect right to, applied Mr. Brown's supposition of fraudulent collusion to cases like Wiley's which might occur, and showed by fair and logical deduction to what principle it would lead. To claim privileges, which, by any possibility, might tend in the most remote degree to such a result is indeed in the claimer an insult to his countrymen.

The Friend is pleased to say that the Correspondence is the most singular document ever issued, &c. "Mal y soit qui mal y pense." By reference to the criminal Recorder of New York, and other publications ordered by the various courts in Europe and America, for the purpose of preserving criminal records, it will find details of a far more revolting nature. Such publications are not intended, however, any more than the Correspondence to be carried into domestic circles.

But enough of this. The Friend in the same spirit with which it has assailed the highest officers of government and the courts of judicature, has seen fit also, to make an invidious personal attack upon us. We thank the editor for supposing that our talents could have been better appreciated in the United States than here. That, being the land where general intelligence most prevails he has paid us a compliment, and reflected somewhat sorrowfully upon his countrymen here. He can settle that with them.—But we most distinctly call upon him to point out his authority for the speech so ridiculously put into our mouth. It is in vain to reason or even to contend against ridicule, if language is coined and palmed off as the genuine production of an opponent. Again, a specious attempt is made to cover Mr. Brown's errors of composition, by attributing them to "the editors own types." The highest kind of testimony it seems is required to cov-